IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. :	10/597,752
Applicant(s):	Horst Greiner
Filed:	August 7, 2006
TC/A.U.:	2800/2875
Examiner:	Sean P. Gramling
Atty. Docket:	DE 040041 US1
Confirmation No.:	5798
Title:	LUMINOUS BODY

REQUEST FOR PRE-APPEAL BRIEF CONFERENCE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In connection with the Notice of Appeal filed concurrently, Applicants respectfully request reconsideration of the application in light of the following remarks.

This paper includes (each beginning on a separate sheet):

1. **Remarks/Discussion of Issues;**

REMARKS / DISCUSSION OF ISSUES

Claims 1-12 are pending in the application. Claim 1 is the independent claim.

Rejections under 35 U.S.C. § 102

Claims 1 and 4-12 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by *Koike, et al.* (U.S. Patent 6,345,903). For at least the reasons set forth below, Applicants respectfully submit that all claims are patentable over the prior art of record and that the Examiner's reasoning for maintaining the rejection is **clearly erroneous**.

Claim 1 recites:

A luminous body comprising:
a housing with a light emission surface and a plurality of light sources arranged in the housing, wherein the housing comprises: at least a first optical medium with a first optical scattering power, into which medium the light of the light sources is coupled; and
a plurality of second optical medium elements with a second optical scattering power disposed in the housing, wherein ***each of the second optical medium elements comprises a plurality of particles, and each of the second medium elements is disposed over a respective one of the light sources.***

In one exemplary embodiment disclosed in the specification, a second optical medium element 5 is disposed over a respective one of the light sources 2. Moreover, each of the second optical medium elements comprises a plurality of particles, for example as described in the specification beginning at page 5, line 33:

"The light-scattering properties of the second optical media 5 may be achieved, for example, in that they comprise a dispersion of scattering particles, such as, for example, hollow globules with a refractive index different from that of the remaining material of the material 5."

Thus, each second optical medium element 5 comprises a plurality of particles, and each optical medium element 5 is disposed over a respective light source 2. Applicants respectfully submit that *Koike* fails to anticipate at least this feature of claim 1.

It is well established, of course, that anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference[1] or embodied in a single prior

[1] *See, e.g., In re Paulsen,* 30 F.3d 1475, 31 USPQ2d 1671 (Fed. Cir. 1994); *In re Spada,* 911 F.2d 705, 15 USPQ2d 1655 (Fed. Cir. 1990).

art device or practice.[2] For anticipation, there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. [3]

In rejecting claim 1, the Examiner directs Applicants to the second resin encapsulator 27 in *Koike, et al.* for the alleged disclosure of the first optical medium, and to the first resin encapsulator 25 for the alleged second optical medium elements. The rejection is improper at least because the first resin encapsulator 25 is not disclosed as comprising *a plurality of particles.* As noted in the Response under Rule 111 at pages 5-6, the first resin encapsulator 25 of *Koike, et al.* includes a wavelength-converting material. As set forth in *Koike, et al.*, this wavelength-converting material may be a fluorescent *dye* or fluorescent *pigment, or the like.* However, there is no disclosure in *Koike, et al.* of the first resin encapsulator's having a plurality of particles as specifically recited in claim 1. Rather, the first resin encapsulator 25 is **dyed** or **pigmented** with a fluorescent material. Stated somewhat differently, rather than a material comprising a plurality of particles as specifically recited in claim 1, the first resin encapsulator 25 is colored (i.e., dyed or pigmented) with a wavelength-converting material. Such a material in the context of in *Koike, et al.* is not disclosed as being and would not be particulate in nature, but rather *like* a *dye* or *pigment* is mixed in the first resin encapsulator 25. *Applicants respectfully submit that the assertion that the first resin encapsulator comprises a plurality of particles represents* ***clear error*** *by the Examiner.*

The Office Action presents a definition of "particle" and asserts that the chemical compound fluorescein, a hydrocarbon molecular substance, is comprised of "particles" within the proffered definition. Specifically, the Office Action asserts that the **individual atoms** of the fluorescein molecule can be reasonably construed as being the claimed **plurality of particles**. Applicants respectfully but strongly demur.

Applicants respectfully submit that it is **entirely unreasonable** to construe the individual atoms of the fluorescein molecule as being a plurality of particles as specifically recited in claim 1. Certainly one of ordinary skill in the art would not construe the dye or pigment as disclosed in *Koike, et al.* at the atomic level to infer that the wavelength-converting material as a plurality of

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[2] *See, e.g., Minnesota Min. & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992).

[3] *See, e.g., Scripps Clinic & Res. Found. v. Genentech, Inc.*, 927 F.2d 1565, 18 USPQ2d 1001 (Fed. Cir. 1991).

particles. Stated somewhat differently, by the Examiner's reasoning, every material, no matter how uniform or amorphous comprises a plurality of particles. Certainly, one of ordinary skill in the art would not reasonably construe every material to be particulate in nature. Finally, as noted above *Koike, et al.* discloses that the wavelength-converting material may be a fluorescent *dye* or fluorescent *pigment, or the like*. Applicants respectfully submit that one of ordinary skill in the art **would not liken** fluorescent dye or fluorescent pigment to a plurality of particles, as the Examiner suggests. Applicants respectfully submit that the Examiner's reasoning is **clearly erroneous**.

For at least the reasons set forth above, Applicants respectfully submit that a *prima facie* case of anticipation cannot be established based on *Kokei, et al.* Therefore, claim 1 is patentable over *Kokei, et al.* Moreover, claims 2-12, which depend from claim 1 immediately or ultimately, are patentable for at least the same reasons and in view of their additionally recited subject matter.

Conclusion

In view the foregoing, applicant(s) respectfully request(s) that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance.

If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted on behalf of:
Phillips Electronics North America Corp.

/William S. Francos/

by: William S. Francos (Reg. No. 38,456)
Date: July 7, 2010

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